

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI

Theodore Witherspoon 57114-004 )  
(full name) (Register No.) )

Plaintiff(s).

18-3325-CV-S-BP-P

Case No. \_\_\_\_\_

Brack, Frazier, Barnett and Eight )  
(Full name) )

unknown Federal staff members )

Defendant(s).

COMPLAINT PURSUANT TO 28 U.S.C. § 1331

I. Place of present confinement of plaintiff(s): United States Medical Center  
for Federal Prisoners; Springfield

II. Parties to this civil action:  
Please give your commitment name and any another name(s) you have used while incarcerated.

A. Plaintiff Theodore Witherspoon Register No. 57114-004  
Address P.O. BOX 4000 Springfield, MO 65801

B. Defendant Brack

Is employed as a correctional officer

For additional plaintiffs or defendants, provide above information in same format on a separate page.

C. Defendant, Frazier

is employed as a correctional officer

D. Defendant, Barnett

is employed as a correctional officer

E. Defendant, Several unknown staff members

is employed as Federal staff members

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- III. Do your claims involve medical treatment? Yes ☒ No ☐
- IV. Do you request a jury trial? Yes ☒ No ☐
- V. Do you request money damages? Yes ☒ No ☐  
State the amount claimed? \$ ~~250,000~~ / ~~100,000~~ (actual/punitive)
- VI. Are the wrongs alleged in your complaint continuing to occur? Yes ☐ No ☒

VII. Grievance procedures:

A. Does your institution have an administrative or grievance procedure?

Yes ☒ No ☐

B. Have the claims in this case been presented through an administrative or grievance procedure within the institution?

Yes ☒ No ☐

C. If a grievance was filed, state the date your claims were presented, how they were presented, and the result of that procedure. (Attach a copy of the final result.)

I started on 3/24/18 with a BP-8 and ending with a BP-11 to Washington D.C  
in which I was denied everytime. The BP-11 overexceeded the 6 month  
time

D. If you have not filed a grievance, state the reasons.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VIII. Previous civil actions:

1. A. Have you begun other cases in state or federal courts dealing with the same facts involved in this case: Yes ☐ No ☒

B. Have you begun other cases in state or federal courts relating to the conditions of or treatment while incarcerated? Yes ☐ No ☒

C. If your answer is "yes," to either of the above questions, provide the following information for each case.

(1) Style: \_\_\_\_\_  
(Plaintiff) (Defendant)

(2) Date filed: \_\_\_\_\_

(3) Court where filed: \_\_\_\_\_

(4) Case Number and citation: \_\_\_\_\_

(5) Basic claim made: \_\_\_\_\_

(6) Date of disposition: \_\_\_\_\_

(7) Disposition: \_\_\_\_\_

(Pending) (on appeal) (resolved)

(8) If resolved, state whether for:

\_\_\_\_\_  
(Plaintiff) or (defendant)

For additional cases, provide the above information in the same format on a separate page.

IX. Statement of claim:

- A. State here as briefly as possible the facts of your claim. Describe how each named defendant is involved. Include the names of other persons involved, dates and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

On 3/14/18 around 6:30 AM plaintiff Witherspoon got into a heated debate with defendant Barnett about my Dialysis treatment when Defendants Brack and Frazier all of a sudden interruptedly slammed me into the wall. When Witherspoon, (handcuffed and belly chained) snatched back, he was slammed to the ground by defendants Brack, Frazier and Barnett who continued to knee him in the back that caused pain. All of a sudden around 8 unknown staff members came and started jumping on his back. One unknown member slammed his head

- B. State briefly your legal theory or cite appropriate authority:

Defendants used Excessive Force by slamming Witherspoon into the wall and floor with malicious and sadistic intent, rather than to restore discipline. All defendants continued to knee Witherspoon in the back until he couldn't breathe, this caused pain for months. All of the defendants actions violated Witherspoon's rights under Eighth Amendment to the United States Constitution and caused plaintiff pain, suffering physical injury and emotional distress.

Relief: State briefly exactly what you want the court to do for you. Make no legal arguments.

Wherefore the plaintiff respectfully pray that this court enters judgement \$50,000 against each defendant for compensatory damages and joint and several \$25,000 punitive each defendant jointly and severally.

## Bivens Complaint continuance

- into the concrete floor, busted <sup>his</sup> ~~his~~ lip and swelling his left eye causing pain for 1 week
2. When Witherspoon was escorted to a wheelchair, he was choked out again by defendant Frazier, who was told to stop by Lt. Espinoza.
3. Witherspoon was taken to a Mental Health cell for a week until the swelling went down
4. When taken back to Administrative Segregation on 3/22/18, Witherspoon reported to Nurse Nelson at pill line that his lower back was in extreme pain. Nurse Bowden was informed on 3/24/18 about the pain in Witherspoon's back.
5. Witherspoon reported his back problem to Dr. Moose on 5/3/18, who ordered him Tylenol 3 for immediate pain, and referred him Physical Therapy.
10. The Physical Therapist felt the tension in Witherspoon's lower back and gave him some exercises to do for the pain.

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X. Counsel:

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name.

\_\_\_\_\_

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action? Yes \_\_\_\_\_ No ☒

If so, state the names(s) and address(es) of each lawyer contacted.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Have you previously had a lawyer representing you in a civil action in this court? Yes \_\_\_\_\_ No ☒

If so, state the lawyers name and address.


\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed (signed) this 26 day of September 2018.

\_\_\_\_\_  
  
\_\_\_\_\_  
(Signatures of Plaintiff(s))

Theodore Witherspoon 57114-004

U.S.M.C.F.P

P.O. Box 4000

Springfield, MO 65801-4000



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